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TO:	FROM:
Steven P. Griffin	Adenike Adewuya
COMPANY:	DATE:
U.S. Patent and Trademark Office	7/29/2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 872-9373	14
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(703) 308-1164	SP01-116
RE:	YOUR REFERENCE NUMBER:
Petition under MPEP §710.06	09/848,903

URGENT  FOR REVIEW  PLEASE COMMENT  PLEASE REPLY  PLEASE RECYCLE

**NOTES/COMMENTS:**

Dear Steven,

Thanks for your help in sorting out the correspondence address issue in the referenced case. As requested, a petition to reset period for reply in the case is enclosed.

With best regards,

*Adenike Adewuya*  
Adenike Adewuya  
Reg. No. 42,254

4606 FM 1960 West, Suite 400, Houston, Texas 77069 | Tel 281.477.3450 | Fax 281.477.3455

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FILE No.798 07/29 '03 10:37 ID:CORNING PATENT DEPT FAX:6079742407  
 07/18/03 FRI 14:17 FAX 7032055406 GP 1700 FAX MACHINE

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U. S. Patent and Trademark Office  
 Technology Center 1700  
 Facsimile Transmission

RSP  
Date:

7/18/03

10 pages

To: Adenike Adewuya

Organization: \_\_\_\_\_

Phone #: 281-477-3450Fax #: 281-477-3455 (607) 974-3848

SPO1-114

From: Steve Griffin  
 Phone #: (703) 308-1164  
 Fax #: (703) 672-9373

Comments:

09/24/8903

Number of Pages including this Cover Page: 63

If you have not received all pages of this transmission, please contact this Examining Group as soon as possible at the above telephone number.

For PTO Staff  
 If this box is checked, do not return this transmission to the sender.

Jul 29 2003 2:04PM Dewipat Incorporated

281-477-3455

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07/18/03 FRI 14:17 FAX 7033055408 GP 1700 FAX MACHINE

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M002



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Arlington, Virginia 20591-4000  
Washington, D.C. 20591  
http://uspto.gov/ptab

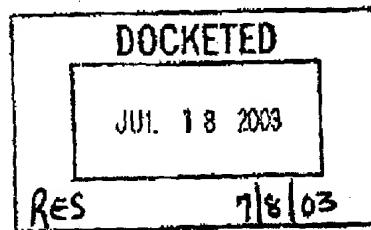
APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,903	05/04/2001	David L. Tenison	SPD-116	3715

22917 7593 06/06/2001  
ROSENTHAL & OSHA L.L.P.  
1221 MCKINNEY AVENUE  
SUITE 2800  
HOUSTON, TX 77010

EXAMINER	
MORILLA, CHRISTOPHER A	
ART UNIT	PAPER NUMBER
1731	
DATE MAILED: 04/06/2003	

RSW

Please find below and/or attached an Office communication concerning this application or proceeding.



PTO-90C (Rev. 07-01)

FILE No.798 07/29 '03 10:37 ID:CORNING PATENT DEPT FAX:6079742407  
4/18/03 FBI 14:14 FAX 704-555-4405 UP 1700 FAX MACHINE

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1003

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/848,603	TENNENT ET AL.
	Examiner	Art Unit
	Christopher A. Florita	1731

**Period for Reply**

### ***Office Action Summary***

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after 31X (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- NO period for reply is specified above, the maximum statutory period will apply and will expire 31X (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### STATUS

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-20 and 45-50 is/are pending in the application.  
4a) Of the above claim(s) 28-34 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-27, 35-39 and 45-50 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any rejection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 113 and 120

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-846)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,6.  
4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

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16004

Application/Control Number: 09/848,903  
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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless—

(a) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5,7,9-22,24-27, 35-39, and 45-50 are rejected under 35 U.S.C. 102(a) as being anticipated by Brown et al. Pub. No. US 2002/0005051.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Brown et al. discloses a process of making silica by delivering a silica precursor comprising a pseudohalogen (i.e. silicon trisocyanate) to a conversion site; and passing the silica precursor through a flame to produce silica soot. Brown et al. also discloses consolidating the preform. See paragraphs [0056]-[0058] and paragraph [0096].

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(e) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-27, 35-39 and 45-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (Pub. No. 2002/0005051) in view of Brown et al. (6,378,337).

'337 discloses that deposited silica may be consolidated simultaneously with deposition or after deposition. '337 also discloses utilizing a plasma for deposition. It would have been obvious to use these limitation in the process of 2002/0005051 in order to optimize the process. Consolidating simultaneously with deposition would eliminate a separate deposition step. Use of a plasma would be obvious in view of the generic disclosure of the primary reference.

The use of CH4 as a fuel for forming silica soot is well known in the art and it would have been obvious to one skilled in the art at the time of the invention to use this well known material in view of its known properties to optimize the process.

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US/ED/US FBI 14:14 FAX 7066666498 07 1700 FAX MACHINE

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121008

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Part 4

Art Unit: 1731

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Fiorilli whose telephone number is 703-308-0674. The examiner can normally be reached on M-F, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

ca 40

Christopher A. Florilla  
Primary Examiner  
Art Unit 1731

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 2007  
 17UV, MAI BAUM, NY, NY 10007

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<b>Notice of References Cited</b>			Application/Control No. 09/848,903	Applicant(s)/Patent Under Reexamination TENNENT ET AL.	
Examiner Christopher A. Fiorillo			Art Unit 1731	Page 1 of 1	
<b>U.S. PATENT DOCUMENTS</b>					

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name		Classification
A	US-6378837	04-2002	Brown et al.		—
B	US-2002/0005051	01-2002	Brown et al.		—
C	US-				
D	US-				
E	US-				
F	US-				
G	US-				
H	US-				
I	US-				
J	US-				
K	US-				
L	US-				
M	US-				

<b>FOREIGN PATENT DOCUMENTS</b>					
*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
O					
P					
Q					
R					
S					
T					

<b>NON-PATENT DOCUMENTS</b>	
Include as applicable : Author, Title Date, Publisher, Edition or Volume, Pertinent Pages	
U	
V	
W	
X	

A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a))  
 Dates in MM-YYYY format are publication dates. Classifications may be US or Foreign.  
 U.S. Patent and Trademark Office  
 PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 8

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US/18/03 FRI 14:29 FAX 7033055406 CP 1700 FAX MACHINE

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2008

<p>Information Disclosure Citation (Use several sheets if necessary)</p> <p>31 18 2001</p> <p>Q1 P E</p>				Document Number (Optional) 66499-029001:SPv2-126	Application Number 89/848,903		
				Applicant(s) David L. TENNENT et al.	Filing Date 05/04/2001		
					Corresp. Art Date 1731		
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
CF	A1	5,152,819	10/06/92	Blackwell et al.	65	3.12	08/26/91
CF	A2	4,877,938	10/31/89	Ray et al.	219	121.59	09/24/87
CF	A3	4,714,589	12/31/87	Answeida et al.	427	39	06/30/86
CF	A4	4,402,720	09/16/83	Edahiro et al.	65	3.12	12/16/80
CF	A5	5,288,518	03/21/94	Hosuma	427	255.1	06/05/92
CF	A6	4,737,379	04/11/88	Hudgens et al.	427	39	03/31/87
CF	A7	5,876,798	03/07/99	Vassiliev	427	165.3	12/29/97
CF	A8	5,800,877	09/01/98	Maeda et al.	427	335	09/09/96
RECEIVED JUL 30 2001 1731							
FOREIGN PATENT DOCUMENTS							
REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translators Type: NO	
CF	WO 98/27140	06/25/98	PCT	—	—		
CF	WO 99/02459	01/22/99	PCT	—	—		
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Page, etc.)							
CF	A11	The Chemistry of the Halogens and the Noble Gases, Problems, pp 790-791					
CF	A12	Carbon, Chapter 8 - Cyanides and Other Carbon-Nitrogen Compounds, pp. 336-343					
EXAMINER	<i>CA</i>			DATE CONSIDERED 4/4/03			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 659; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication due to applicant.							

Form PTO-1450  
(Also Form PTO-1449)

2001-REV04

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SHEET 1 OF 1

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U/18/03 FRI 14:26 FAX 7033055402 FAX:6079742407  
GP 1700 FAX MACHINEPAGE 10  
008FORM PTO-1449 (MODIFIED)  
LIST OF PATENTS AND  
PUBLICATIONS  
FOR APPLICANT'S INFORMATION  
DISCLOSURE STATEMENT

ATTORNEY DOCKET NO.

SERIAL NO.

SP01-116

APPLICANT Tennent et al.

FILING DATE

1721  
GROUP

## REFERENCE DESIGNATION

## U.S. PATENT DOCUMENTS

Examiner Initial	Document Number	Date	Name	Class	Sub-Class	Filing Date If Approp.
CF	AA 4,629,485	2/16/86	Berkey	65	3.11	9/26/83
AB						
AC						
AD						
AE						
AF						
AG						
AH						
AI						
AJ						
AK						

## FOREIGN PATENT DOCUMENTS

	Document Number	Date	Country	Class	Sub-Class	Translation Yes No
AL						
AM						
AN						
AO						
AP						
AQ						

## OTHER ART (including Author, Title, Date, Pertinent Pages, etc.)

AR	
AS	
AT	
AU	
AV	
AW	

EXAMINER:

ca-702

DATE CONSIDERED:

4/4/03

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPBP 609: draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Information Disclosure Statement-PTO-1449 (Modified)

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281-477-3455

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FILE No. 798 07/29 '03 10:38 ID: CORNING PATENT DEPT FAX: 6079742407  
07/15/03 PM 14:21 FAX 008888888888 607 1700 FAX MACHINEPAGE 11  
0010

FORM PTO-1449 (MOI 'ED)	ATTORNEY DOCKET	SERIAL NO.
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	SP01-116	09/848,903
	APPLICANT Tennent et al.	SEP 16 2002 1731
	FILING DATE 5/4/01	GROUP:

## REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

Examiner Initial	Document Number	Date	Name	Class	Sub-Class	Filing Date if Approp.
AA						
AB						
AC						
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AG						
AH						
AI						
AJ						
AK						

## FOREIGN PATENT DOCUMENTS

	Document Number	Date	Country	Class	Sub-Class	Translation Yes No
CF	AL WO 02/21217	3/14/02	USA	G03F	9/00	X
AM						
AN						
AD						
AP						
AQ						

## OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)

AR	
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EXAMINER: CA-JOC DATE CONSIDERED: 4/4/03

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609: draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Information Disclosure Statement-PTC-1449 (Modified)